

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nicanor A. Kohncke on 12/09/09.

The application has been amended as follows:

Claim 1 (Currently Amended) A method of protecting a glued wood-based product comprising: applying a wood preservative consisting essentially of triadimefon and/or triadimenol, in combination with optional other further triazole fungicides, optional insecticides selected from the group consisting of synthetic pyrethroids, neonictinoids and mixtures thereof, and optional solvents, to an alkaline glue or glue system that is subsequently added to the glued wood-based product during the manufacturing thereof.

In claim 5, line 3, delete "active" and insert therefor --triazole--.

In claim 6, line 2, before the word "fungicide" insert --triazole--.

Claim 7 (Currently Amended) A composition [comprising:] consisting essentially of: an alkaline glue or glue system, [and] at least one triadimefon and/or triadimenol, optional further triazole fungicides, optional insecticides selected from the group consisting of synthetic pyrethroids, neonictinoids and mixtures thereof, and optional solvents.

Claim 8 (Currently Amended) The composition according to Claim 7, further comprising at least one further active triazole fungicide or insecticide selected from the group consisting of synthetic pyrethroids, neonictinoids and mixtures thereof.

Claim 11 (Currently Amended) The method according to Claim 3, wherein the mixture of the alkaline glue or glue system and said triadimefon and/or triadimenol further comprises at least one further active insecticide selected from the group consisting of synthetic pyrethroids, neonictinoids and mixtures thereof.

Claims 14 and 16-18 have been canceled.

The following is an examiner's statement of reasons for allowance: Specific support for said examiner's amendment in regards to the optional insecticide component is found on page 12, line 26 to page 13, line 11 of applicant's specification. The above Examiner's amendment is deemed to clearly distinguish applicant's claimed

Art Unit: 1796

invention over the applied Heuer et al. patent for at least because Heuer et al's wood preservative composition requires at least one copper compound as a fungicide and/or insecticide. Heuer et al's said copper compound is deemed to be positively excluded from the above Examiner amended claims because of the use of the restrictive claim language of "consisting essentially of" before the recitation of the components found in combination with applicant's alkaline glue or glue system. Claims 14 and 16, newly added in the amendment filed 09/16/09, are canceled because there is insufficient support in applicant's disclosure of their recited pH range. Claims 17-18, newly added in the amendment filed 09/16/09, are also being canceled since they are drawn to a method that is clearly distinct from the method originally examined in independent claim 1, since the method of claims 17-18 do NOT require that triadimefon and/or triadimenol is/are applied to an alkaline glue or glue system before said alkaline glue or glue system is used in a manufacturing process to make the glued wood-based product. Please note that in applicant's independent claims 1 and 7 the word "alkaline" is being read to be a modifier not only of the "glue" component but also, in the alternative, of the "glue system". As such, the "glue system" in applicant's claims is an alkaline glue system. Such a reading is deemed to be consistent with both applicant's disclosure and applicant's arguments set forth in the remarks section of the amendment filed 09/16/09.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The centralized FAX machine number is (571) 273-8300. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.

**/Joseph D. Anthony/
Primary Patent Examiner
Art Unit 1796
12/09/09**